APPENDIX

Revenue Act of 1932, c. 209, 47 Stat. 169:

"SEC. 13. TAX ON CORPORATIONS

"(a) Rate of Tax.—There shall be levied, collected, and paid for each taxable year upon the net income of every corporation, a tax of 13¾ per centum of the amount of the net income in excess of the credit against net income provided in section 26."

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"SEC. 52. CORPORATION RETURNS.

"(a) *Requirement.*—Every corporation subject to taxation under this title shall make a return, stating specifically the items of its gross income and the deductions and credits allowed by this title. The return shall be sworn by the president, vice president, or other principal officer and by treasurer or assistant treasurer. * * *

"SEC. 1111. DEFINITIONS.

"(a) When used in this Act—

"(1) The term 'person' means an individual, a trust or estate, a partnership, or a corporation.

"(2) The term 'corporation' includes associations, joint-stock companies, and insurance companies.

"(3) The term 'partnership' includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this Act, a trust or estate or a corporation; and

the term 'partner' includes a member in such a syndicate, group, pool, joint venture, or organization.

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"(6) The term 'fiduciary' means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

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"(8) The term 'stock' includes the share in an association, joint-stock company, or insurance company.

"(9) The term 'shareholder' includes a member in an association, joint-stock company, or insurance company.

"SEC. 181. PARTNERSHIP NOT TAXABLE.

"Individuals carrying on business in partnership shall be liable for income tax only in their individual capacity."

"SEC. 182. TAX OF PARTNERS

"(a) General Rule.—There shall be included in computing the net income of each partner his distributive share, whether distributed or not, of the net income of the partnership for the taxable year. If the taxable year of a partner is different from that of the partnership, the amount so included shall be based upon the income of the partnership for any taxable year of the partnership ending within his taxable year."

"SECTION 189. PARTNERSHIP RETURNS

"Every partnership shall make a return for each taxable year, stating specifically the items of its

gross income and the deductions allowed by this title, and shall include in the return the names and addresses of the individuals who would be entitled to share in the net income if distributed and the amount of the distributive share of each individual. The return shall be sworn to by any one of the partners."

"TREASURY REGULATIONS 77 PROMULGATED, under the Revised Act of 1932:

"ART. 1311. *Person*—The Act recognizes four classes of persons—individuals, trusts and estates, partnerships, and corporations. Corporations include associations, joint-stock companies and insurance companies, but not partnerships properly so called. A taxpayer is any person subject to a tax imposed by the Act.

"ART. 1312. *Association.* — Associations and joint-stock companies include associations, common law trusts, and organizations by whatever name known, which act or do business in an organized capacity, whether created under and pursuant to State laws, agreements, declarations of trust, or otherwise, the net income of which, if any, is distributed or distributable among the shareholders on the basis of the capital stock which each holds, or, where there is no capital stock, on the basis of the proportionate share or capital which each has or has invested in the business or property of the organization.

"ART. 1313. — *Association distinguished from partnership.*—An organization, the membership interests in which are transferable and the business of which is conducted by trustees or directors and officers without the active participation of all the members as such, is an association and not a part-

nership. The term 'partnership' includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of the Act, a trust or estate or a corporation; and the term 'partner' includes a member in such a syndicate, group, pool, joint venture, or organization. Organizations which have a fixed capital stock divided into shares represented by certificates transferable only upon the books of the company, which manage their affairs by a board of directors or executive officers, and which conduct their business in the general form and mode of corporations are joint-stock companies or associations within the meaning of the Act even though under State law such organizations are technically partnerships."

"ART. 1314. *Association distinguished from trust.*—Where trustees merely hold property for the collection of the income and its distribution among the beneficiaries of the trust, and are not engaged, either by themselves or in connection with the beneficiaries, in the carrying on of any business, no association exists, and the trust and the beneficiaries thereof will be subject to tax as provided by sections 161-170 and by articles 861-891. Where the trustees are not restricted to the mere collection of funds and their payment to the beneficiaries, but have similar or greater powers than the directors in a corporation for the purpose of carrying on some business enterprise, the trust is an association within the meaning of the Act."

"ART. 1320. *Fiduciary distinguished from agent.*— There may be a fiduciary relationship between an agent and a principal, but the word 'agent' does not denote a fiduciary. A fiduciary rela-

tionship cannot be created by a power of attorney. An agent having entire charge of property, with authority to effect and execute leases with tenants, entirely on his own responsibility and without consulting his principal, merely turning over the net profits from the property periodically to his principal by virtue of authority conferred upon him by a power of attorney, is not a fiduciary within the meaning of the Act. In cases where no legal trust has been created in the estate controlled by the agent and attorney, the liability to make a return rests with the principal."

"REVISED CIVIL STATUTES OF TEXAS

"ART. 5924. *Business under assumed name.*— No person shall conduct or transact business in this State under any assumed name or under any designation, name, style, corporate or otherwise other than the real name of each individual conducting or transacting such business, unless such person shall file in the office of the county clerk of the counties in which such person conducts, or transacts or intends to conduct or transact such business, a certificate setting forth the name under which such business is, or is to be, conducted or transacted, and the true full name or names of each person conducting or transacting the same, with the post office address of each. Said certificate shall be executed and duly acknowledged by the persons so conducting or intending to conduct said business in the manner provided for acknowledgement of conveyance of real estate.